
30 September 1996

CIRCULAR

**THE
FURTHER
EDUCATION
FUNDING
COUNCIL**

**CONDUCT OF THE COUNCIL'S
BUSINESS**

Cheylesmore House
Quinton Road
Coventry CV1 2WT

To

Principals of colleges
Chairmen of college governing
bodies
Heads of external institutions
Heads of higher education
institutions receiving Council funds
Chief education officers
Bodies with an interest in further
education

Circular type

Information

Summary

Report on consultation and final
codes governing the Council's
conduct in relation to corporate
responsibility, individual conduct
and access to information

Supersedes

Circular 95/04

Reference number: 96/24

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96/24

CONDUCT OF THE COUNCIL'S BUSINESS

INTRODUCTION

1 This circular confirms the ways in which the Council conducts its business and intends to do so in the future. Four codes are attached as annexes, covering arrangements for corporate responsibility, the individual conduct of Council members, the conduct of staff, and access to information.

BACKGROUND

2 The Council proposed arrangements for the conduct of its business in Circular 95/04 and invited comments on draft codes of conduct and proposals for:

- new ways in which those with an interest in the Council's work could gain information about its work
- procedures for considering complaints about Council decisions.

CONSULTATION

3 The Council received 124 replies to its invitation for comments on the proposals in Circular 95/04. A report on the responses is at annex A.

4 In summary, the results of consultation show that each of the Council's proposals received support from over 90 per cent of those who responded. Where support fell below 90 per cent for any individual category of respondent, the number not supporting the proposal was only one or two responses in each category.

5 The Council also received a number of detailed comments. Seven issues were raised by three or more respondents, as follows:

- Council and committee minutes and agendas should be circulated to all colleges with an appropriate charge (3 responses)
- reports to the Council and committees should be available in addition to minutes and agendas (6 responses)
- minutes might be held electronically (3 responses)
- agendas should be available in advance (5 responses)

- the proposed AGM might be better as a regional event (4 responses)
- the AGM might be held alongside the annual principals' conference (4 responses)
- Council meetings should be open to the public (8 responses).

COUNCIL DECISIONS

Consultation

6 The Council has considered all responses to its proposals and the recommendations of the Nolan committee and has decided in the light of the level of support for its proposals to confirm its proposals but with one substantive amendment arising from consultation: to introduce a public register of relevant interests for members of its regional committees.

Committee on Standards in Public Life

7 On 11 May 1995, the prime minister published the first report of the committee on standards in public life (the Nolan committee), which included recommendations relating to the conduct of non-departmental public bodies such as the Council.

8 The Council has reviewed its proposals against the committee's recommendations and as a result has made three further substantive changes to its proposals:

- the incorporation in its codes of the Nolan committee's seven principles of public life (see appendix to annex B)
- the extension of the proposed code of conduct for senior staff to all staff
- the introduction of a system whereby staff may raise concerns on a confidential basis if they consider that the Council's codes have not been complied with.

CODES GOVERNING THE COUNCIL'S CONDUCT

9 Final versions of codes governing corporate responsibility, conduct of Council members, conduct of staff and access to information, are attached at annexes B, C, D and E. Substantive changes to the draft codes and the other proposals made in Circular 95/04 are sidelined.

Implementation

10 The codes will take immediate effect. As noted in paragraph 6 of the code on access to information at annex E, the Council intends to review its arrangements for an annual general meeting in the light of experience after two years.

David Melville

ANALYSIS OF RESPONSES TO CONSULTATION ON THE CONDUCT OF THE COUNCIL'S BUSINESS

SUMMARY

1 The Council received 124 replies to its invitation in Circular 95/04 for comments on proposals relating to the conduct of the Council's business.

2 Table 1 shows the number of responses by type of respondent.

3 Table 2 shows levels of agreement to the 14 specific issues on which responses were sought.

4 Table 3 shows the percentage support in more detail broken down by category of respondent.

5 In summary, these results show that overall, each of the Council's proposals received support from over 90 per cent of those who responded to the individual proposals. Where support fell below 90 per cent in any individual category of respondent, the number not supporting was only one or two responses in each category.

DETAILED RESPONSES

6 A number of detailed comments were made on the proposals. While most of these comments were made only once, the following comments were made by three or more respondents:

- Council and committee minutes and agendas should be circulated to all colleges with an appropriate charge (3 responses)
- reports to the Council and committees should be available in addition to minutes and agendas (6 responses)
- minutes might be held electronically (3 responses)
- agendas should be available in advance (5 responses)
- the proposed AGM might be better as a regional event (4 responses)
- the AGM might be held alongside the annual principals' conference (4 responses)
- Council meetings should be open to the public (8 responses).

Table 1. Number of responses received by type of respondent

<i>Type of respondent</i>	<i>Number responding</i>
General further education college	46
Tertiary college	12
Sixth form college	16
Other college	7
External institution	4
Higher education institution	6
Training and enterprise council	2
College association	2
Local education authority	16
Non-departmental public body	6
Other organisation	7
Total	124

CODE OF CORPORATE RESPONSIBILITY

INTRODUCTION

1 This code describes the principles underlying the approach of the Further Education Funding Council (the Council) to its business and the responsibilities of Council members in relation to their collective conduct. The code also sets out the procedures which the Council has adopted to ensure that it is capable of carrying out its responsibilities in keeping with its role as a public body spending public funds.

PRINCIPLES

2 The Council has adopted the following principles to guide its work:

Accountability

The decisions of the Council and the executive action which puts them into effect should be capable of standing the tests of parliamentary scrutiny, public judgement on propriety and professional standards.

Probity

There should be complete honesty in dealing with the funds entrusted to the Council; integrity should be the principle underlying all action taken by or on behalf of the Council.

Openness

There should be sufficient transparency about Council activities to justify confidence in the Council by parliament, the further education sector, students and the public.

In addition, the Council has adopted the seven principles of public life established by the committee on standards in public life (the Nolan committee) to guide its work. These principles are reproduced at the appendix to this annex.

COLLECTIVE RESPONSIBILITIES OF THE COUNCIL

3 The principal duties of the Council, for which it is accountable, derive from the *Further and Higher Education Act 1992*. They are:

- to secure sufficient facilities for education for full-time students aged 16 to 18 and adequate further education facilities for

part-time students aged 16 to 18 and students aged 19 and over

- to have regard for students with learning difficulties and/or disabilities
- to secure provision for assessing the quality of education provided in colleges within the sector.

4 The Council fulfils these functions assisted by the advice of its nine regional committees and other advisory committees by distributing the funds allocated to it by parliament and attaching conditions to their use.

5 The members of the Council collectively have responsibility for setting the Council's aims and strategic direction. The Council will agree annually a corporate plan and publish an annual report and its accounts. The Council also has responsibility for ensuring that public funds are properly safeguarded and that at all times the Council conducts its operations as economically, efficiently and effectively as possible with full regard to the relevant statutory provisions. Members are also collectively responsible for ensuring that the Council does not exceed its powers or functions as regards the expenditure of public funds.

6 An important task for the Council has been to determine its aims and objectives and the overall strategic direction towards achieving them. It has determined these after widespread consultation. They are:

- to secure throughout England sufficient and adequate facilities for further education to meet the needs of students including those with learning difficulties and/or disabilities and the communities in which they live
- to contribute to the development of a highly skilled and competitive workforce particularly as envisaged in the national targets for education and training
- to promote access to further education for people who do not participate in education and training but who could benefit from it
- to promote improvements in the quality of further education
- to ensure that the achievements, contribution and potential of the sector and its financial needs are properly represented at national level

- to secure value for money for the funds employed by the Council.

Any change to the Council's aims and objectives will be made only after consultation with the institutions which it funds.

ACCOUNTABILITY AND RESPONSIBILITY

7 In fulfilling its duties and working towards its aims the Council has the following responsibilities:

- financial accountability to parliament through the committee of public accounts
- policy and financial accountability to the secretary of state for education and employment in relation to matters to which the Council should have regard and in complying with conditions of grant or directions given to the Council by the secretary of state
- responsibilities to the institutions it funds
- responsibilities to students enrolled on programmes which it funds in all institutions and to all students in colleges in the further education sector
- responsibilities to the public, including potential students, to employer interests and other bodies including those outside the further education sector with an interest in further education.

8 In all that it does the Council has a duty to act reasonably and within its powers. It may be challenged in the courts if it fails in this duty.

9 The following paragraphs set out the arrangements which the Council has established to ensure that those to whom it has responsibilities are informed of its policies and actions.

Financial Accountability to Parliament

10 The chief executive of the Council is designated as accounting officer for the funds spent by the Council. The accounting officer is responsible to the principal accounting officer of the Department for Education and Employment (DfEE) and to parliament for ensuring the proper application of funds and accounting for them in the Council's annual accounts. Parliament exercises scrutiny of those accounts through its committee of public accounts supported by the National Audit Office, which acts as the Council's external auditor. The

Council's accounts are laid before parliament and are published in the Council's annual report. The chief executive may be called to appear before the committee of public accounts or any other parliamentary select committee to give evidence as to the use of funds.

Policy and Financial Accountability to the Secretary of State

11 The secretary of state for education and employment is responsible for the policy objectives for which parliament votes funds to the Council. The secretary of state gives guidance to the Council directly and through the DfEE on the government's policy objectives and requirements. The secretary of state appoints Council members and may remove them from the Council. The secretary of state also has powers to attach conditions to the funds provided to the Council and to direct the Council as to how it should exercise its functions. The relationship between the secretary of state, the DfEE and the Council is set out in the Council's management statement. On financial matters the Council is required to operate within the terms of a financial memorandum between the Council and the DfEE which specifies the terms on which it receives and may spend funds provided by the secretary of state.

Responsibilities to Institutions Funded by the Council

12 The Council intends that in all its dealings with the institutions it funds it should operate:

- openly
- fairly
- after consultation on significant matters.

The Council accepts an obligation to the institutions it funds to inform them at appropriate times of its policies and requirements and to offer further explanation where such information is not understood. It also accepts an obligation after it has taken decisions to publish the reasons for the decisions and, in the case of major funding decisions, the processes by which decisions were reached.

Responsibilities to Students

13 While students' main relationships are with individual institutions, the Council accepts an obligation to:

- exercise its functions including its funding responsibilities so as to encourage colleges to provide education appropriate to students' needs, which will support students in achieving their potential and the qualifications and employment goals for which they are aiming
- publish information on the quality of teaching and learning at colleges in the further education sector
- monitor the financial health of institutions and require institutions to have in place appropriate systems and procedures for their management
- consider complaints made about colleges in the further education sector as set out in the *Charter for Further Education*
- have in place arrangements for funding further education placements for students with learning difficulties and/or disabilities when their needs cannot be accommodated in further education sector colleges.

Responsibilities to Others

14 As a public body the Council accepts an obligation to the public and to people and bodies with an interest in further education to work for the advancement of further education in England in order to respond to the needs of the community locally and nationally, including the needs of employers. The Council also has an obligation to account for its stewardship of public funds. In particular the Council will:

- publish in its annual report details of its activities and its use of public funds
- ensure that value for money is a key criterion in all its spending decisions
- publish information on the quality of education provided in further education colleges
- respond to requests for information about the Council's business
- consider complaints made about colleges in the further education sector as set out in the *Charter for Further Education*.

Accountability for Public Funds

15 The Council has particular responsibility for spending public money and has put in place specific arrangements for the control of public funds and of delegated functions which are described in the following paragraphs.

16 To ensure that the Council's decisions are compatible with its duties and powers, the Council requires that any report recommending a decision by the Council, or any of its committees with delegated authority, sets out clearly the financial implications of that decision and, where such reports are by a member of the Council's executive other than the director of finance, that these implications are confirmed in a concurrent report from the director of finance.

17 To ensure that the Council's responsibilities for the use of public funds are discharged without impropriety or misuse, the Council has put in place financial regulations governing the proper control of its payments to institutions and the use of its administrative budget.

Payments to institutions

18 The Council's approach to the allocation of funding to institutions is to ensure fair and open methods of allocation. Any method used to allocate funds to institutions will normally be the subject of consultation with institutions in advance. The Council will, where appropriate, after making such allocations, publish details of the outcomes of the method used and the way in which it was applied.

19 The funds made available by the Council to institutions are at present:

- recurrent funding allocations
- minor works capital building allocations
- major capital building allocations
- access funds.

In each case details of allocations to all colleges are published.

20 The Council attaches conditions to the use of its funds as part of the financial memorandum which governs its funding relationship with each college. The current contents of the financial memorandum, in so far as it relates to all colleges, were published in Circular 93/23. The Council publishes each year general conditions applying to all institutions receiving recurrent and other funding from it and attaches individual conditions in respect of both

recurrent and capital funding allocations to particular colleges where necessary.

Procurement of goods, materials and services

21 In respect of the Council's expenditure on supplies and services, normal arrangements for price competition are in place and will be abided by. These arrangements include competitive tendering in respect of orders for goods, materials and services likely to cost in excess of £20,000 excluding VAT and open tenders where such arrangements are appropriate in order to achieve best value. The Council will publish in its annual report details of all contracts which it has awarded worth more than £20,000 in total excluding VAT, including a list of the firms to which the contracts were let.

22 In particular, the Council will ensure that should a firm in which a Council member has an interest tender for the supply of goods or services to the Council, that member will not be involved in the development of the tender specification or in the consideration or award of any tender. In such cases the Council will ensure that the selection panel convened to decide on the award of a tender will include at least one person independent of the Council who will have no interest in the development of a tender or the outcome of the decision. In all such cases, whoever chairs the selection panel will declare to the panel the nature of the Council member's interest in the firm.

23 Following the award of any such tender to a firm in which the member has an interest, a report will be made to the Council detailing the process by which the tender was awarded. The member involved will be required to withdraw during any discussion of such a report.

Annual Report and accounts

24 As part of its responsibilities for public funds it is the duty of the Council to present, through the timely publication of an annual report, an account of its achievements including its own annual accounts. Such accounts will be prepared in accordance with the accounts direction issued by the secretary of state and such other guidance as may be issued from time to time by the DfEE and the treasury.

25 The Council's annual report will provide a full description of the Council's activities in the relevant year, report on the achievement of key strategic objectives, list the names of its members and senior staff and in the accounts provide details of

remuneration of Council members and senior staff within the range of salary bands prescribed by the accounts direction or otherwise.

26 The Council will send a copy of its annual report to each institution in receipt of its funds, all members of parliament and all local authorities and bodies with an interest in further education. In addition the report will be provided to all main public libraries in England.

Audit committee

27 The Council has established an audit committee which must be chaired by a member of the Council who has experience of financial matters (other than the chairman). The membership of the committee will be drawn primarily from the Council but must include at least one external member. Membership may not include the chief executive.

28 The terms of reference of the audit committee are:

- to advise the chief executive as accounting officer on:
 - the Council's internal control system
 - the criteria for the selection and appointment of the Council's chief auditor
 - the annual and longer-term operating plan for the Council's audit service
 - audit reports submitted by the Council's chief auditor
 - reports from the National Audit Office relevant to the Council; and
- to report at least once a year to the Council.

29 The role of the audit committee is to:

- help promote the highest standards of propriety in the use of public funds and encourage proper accountability for the use of those funds
 - improve the quality of financial reporting by reviewing external financial statements on behalf of the accounting officer
 - review the Council's systems for financial and management control to reduce the opportunity for financial mismanagement
 - review the effectiveness of internal control systems to satisfy the accounting officer that the Council will achieve its key objectives and targets and is operating:
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- in accordance with any statutory requirements for the use of public funds
- within delegated authorities laid down by the sponsor department and the public body's own rules on what matters should be referred to the Council
- in a manner which will make most economic and effective use of resources available.

Delegation

30 The Council will from time to time delegate responsibility for specific matters to a committee, the chairman or the chief executive. In order to ensure that such authority is properly used, any delegation of authority will be formally agreed by the Council and recorded in the minutes of the relevant meeting. Decisions taken under delegated authority will be clearly reported to the Council.

31 The Council will not normally delegate responsibility for setting corporate strategy, deciding key objectives and targets and major decisions on the use of financial and other resources.

32 The Council will receive regular reports of the activities and conclusions of any committees it has established.

COMPLAINTS

33 The Council intends that its administrative decisions should be open to examination. It has put into place arrangements for investigating complaints about its administration and decisions.

34 The Council has made arrangements for handling complaints from individual young people and their parents or advocates about decisions relating to the placement of students with learning difficulties and/or disabilities in independent education establishments. These arrangements provide for:

- an initial review of the Council decisions by staff not involved in the original decision
- an appeal to an independent panel to review the Council's procedures and decisions.

35 The Council has also introduced arrangements for dealing with complaints from the institutions it funds about administrative decisions made by the Council concerning them.

36 The following arrangements have been put in place:

- complaints should initially be referred to the head of the Council division responsible for the area of work, that is, the chief inspector on inspection matters; the director of finance on decisions relating to all financial matters including funding allocations and payments and the Council audit and property services functions; the director of education programmes on matters relating to statistics, courses and institutional matters such as reorganisations and the work of the Council regional offices; and the secretary to the Council on the Council's internal service functions and the procedures and operations of the Council itself or its committees, including its regional committees
- the head of division will conduct an initial review of the decision and the results of such reviews will be made available to the complainant within 15 working days
- if the complainant remains dissatisfied, the complaint may be referred to the chief executive of the Council who will arrange for a further review to be carried out of the decision made in the light of the information available; consider that review; and inform the complainant of the outcome in writing within 10 working days
- in cases where the chief executive has been personally involved in the decision at an earlier stage this further review would be carried out by the chairman of the Council.

37 The Council recognises that these arrangements do not provide for external scrutiny of its actions. The Council has established arrangements for a system of external scrutiny to provide a final consideration of any complaint already considered under the arrangements above. The Council has appointed an ombudsman to this role following consultation with the main college associations. The ombudsman will investigate complaints with full authority to require information and examine file records.

Following an investigation, the ombudsman will be expected to come to conclusions and if appropriate to recommend to the Council the action which it should take to provide redress or compensation or to change its procedures to lessen the chances of similar situations arising in the future. Details of the system are published separately in Circular 96/25.

THE NOLAN COMMITTEE: THE SEVEN PRINCIPLES OF PUBLIC LIFE

HOLDERS OF PUBLIC OFFICE

1 Selflessness

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

2 Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their duties.

3 Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

4 Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate.

5 Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands it.

6 Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

7 Leadership

Holders of public office should promote and support these principles by leadership and example.

CODE OF INDIVIDUAL CONDUCT FOR COUNCIL AND REGIONAL COMMITTEE MEMBERS

INTRODUCTION

1 This code describes the responsibilities of members of the Further Education Funding Council (the Council) in relation to their individual conduct. All members of the Council are invited on accepting office to declare that they will abide by the code.

2 The code also governs arrangements for the registration and declaration of interests by members of the Council and of the Council's regional committees.

PRINCIPLES

3 The following principles shall guide the conduct of Council members:

- Council members should act with integrity
- in dealing with public funds, Council members should set and abide by the highest standards of propriety.

RESPONSIBILITIES AND CONDUCT OF INDIVIDUAL COUNCIL MEMBERS

4 Individual Council members should at all times act with an awareness of their wider responsibilities as members of the Council. They should at all times:

- comply with this code
- act in good faith and in the best interests of the Council
- act fully in accordance with the normal principles of financial accountability
- use reasonable care and skill in fulfilling their role.

Members should not:

- act in a way which will bring the Council into disrepute
- use information gained in the course of their public service for personal gain
- use the opportunity of public service to promote their private interests.

5 As a general guide members should not take any action which cannot be publicly explained.

Liability of Council Members

6 Although any legal proceedings initiated by a third party are likely to be brought against the Council, in exceptional cases proceedings may be brought against the chairman or other individual Council members. For example, a Council member may be personally liable if he or she were to make a fraudulent or negligent statement which resulted in loss to a third party. A Council member who misuses information gained by virtue of his or her position may be liable for breach of confidence under common law or under insider dealing legislation. Council members who act honestly, reasonably and in good faith should not normally incur any liability in an individual capacity.

7 The government has indicated that an individual Council member who has acted honestly, reasonably, in good faith and without negligence will not have to meet out of his own personal resources any personal civil liability which is incurred in execution or purported execution of his Council function.

8 The secretary of state may remove an individual Council member from office if that member fails to perform the duties required of a Council member to the standard expected of persons who hold public office.

REGISTRATION AND DECLARATION OF INTERESTS

Register of Interests

9 It is a commonplace of public life that those with responsibility for decisions, particularly those concerning money, should ensure that they distance themselves from any possibility of a conflict of interest between their personal interests and public responsibilities. The Council has introduced registers of the financial and other relevant interests of Council and regional committee members which are available for inspection at each of the Council's offices. Those wishing to inspect the registers may do so at the Council's Coventry office between 09.00 and 17.00 on normal working days or at any of the Council's regional offices by appointment. The registers will be updated once a year.

Council members

10 The register invites members to record as soon as is reasonably practicable after the interest arises:

- remunerated directorships
- remunerated employment, office, profession or other activity
- clients connected with the further education sector or other aspects of the Council's business
- gifts and hospitality of a significant value arising from membership of the Council, that is over the financial limits set out in the rules on the registration and declaration of financial interests applying to members of the House of Commons
- significant shareholdings in a public company which have a nominal value greater than £25,000 or less than £25,000 but greater than 1 per cent of the issued share capital of the company; and similar shareholdings in a private company or body which may give rise to a conflict of interest
- public activity in support of a political party within the previous five years
- miscellaneous, for example unremunerated posts, honorary positions and other connections which may give rise to a conflict of interest or of trust.

Members are invited to record relevant and known interests held by their spouse, partner or close family.

Regional committee members

11 Regional committees are advisory rather than executive committees. Their advice is, however, influential and the Council will maintain a register of regional committee members' relevant interests in the following categories:

- employment or other connection with a body which receives funds from the Council
- employment or other connection with a local education authority or training and enterprise council
- employment or other connection with any firm which offers services to or supplies institutions funded by the Council
- any other interest which may give rise to a conflict of interest or trust.

Members are invited to record relevant and known interests held by their spouse, partner or close family.

Declarations of Interest

Formal business

12 Any Council or regional committee member who has a clear and substantial interest in a matter under consideration by the Council or committee should declare that interest at any meeting where that matter is to be discussed, whether or not that interest is already recorded in the register of interests. Such declarations should make clear the interest and whether it carries either direct or indirect financial interests to the individual.

13 Where such an interest constitutes a direct or indirect financial interest, the member involved should withdraw from any meeting and not speak, participate in or otherwise seek to influence any decision taken by the Council or committee relating to the matter under discussion.

14 Members of the Council or regional committees who are also governors, principals or other employees of bodies which receive funds from the Council may participate in general discussions and decisions regarding such bodies but should withdraw and not participate in any discussion or decision which relates principally to the particular institution with which they are associated.

15 Where a member has an interest which is not financial but which is relevant to the Council's business, that interest should be declared. Where the interest is substantial, the member involved should withdraw from discussions and decisions relating to that interest. Where an interest arises from membership of a public body and where there is no financial interest, full participation in the discussion and decision is permitted.

16 In all circumstances Council and regional committee members should ask themselves whether members of the public knowing the facts of the situation would reasonably conclude that the interest involved might influence the approach taken or the Council's actions. If so, the interest is sufficient for the member to withdraw.

Membership of committees

17 Council members should not agree to participate in committees or working groups of the Council where there is a clear possibility that a conflict of interest will regularly arise.

Informal and other business

18 Members should apply the same standards regarding the declaration of interests and non-involvement in relevant business in their dealings with members of the Council's staff and in informal meetings of Council and regional committee members.

ACCEPTANCE OF GIFTS AND HOSPITALITY

19 Council members should treat with caution any offer or gift, favour or hospitality arising from their membership of the Council. In general, meals may be accepted provided that they are working occasions and the apparent costs of the hospitality are reasonable. Attendance at social events and occasions where the invitation is clearly made because of the connection with the Council is also acceptable although members should not accept lavish hospitality. Care should be taken not to accept hospitality from the same organisation too often or without reciprocal hospitality where appropriate, for example, if there is a need for a follow-up meeting or lunch this should be provided by the Council and not by the other party.

20 All gifts beyond the limits set from time to time under the arrangements for the register of interests at paragraph 10 above should be reported to the Council secretary. Where it is not possible to refuse the gift without giving offence, the gift should be accepted on behalf of the Council and either surrendered to the Council and not kept for personal use or bought from the Council at full value.

RESOLUTION OF DIFFICULTIES

21 If Council or regional committee members have difficulty in complying with this code or believe that the Council is proposing to act improperly they should raise the issue with the chairman of the Council who will advise on its resolution. If Council or regional committee members remain concerned they may seek guidance from the secretary of state.

CODE OF CONDUCT FOR THE COUNCIL'S STAFF

INTRODUCTION

- 1 All staff employed by the Council are required to comply with this code and those with management responsibilities are required to support the code through their supervision of work.
- 2 The principles and rules set out below will in due course be incorporated in contracts of employment.
- 3 Guidance on any aspect of this code can be obtained from the secretary to the Council.

PRINCIPLES AND GENERAL CONDUCT

4 Staff are required to have regard in their work to the principles set out in the Council's codes of corporate responsibility, individual conduct and access to information; and the principles of public life developed by the committee on standards in public life (the Nolan committee) reproduced at appendix 1 to this annex. They have a duty to work towards the aims of the Council and to implement its decisions promptly and efficiently. Staff:

- should at all times discharge their responsibilities honestly, effectively and efficiently
- are responsible for their own actions and actions taken under their direction by any staff under their management
- should at all times act in accordance with the principles of public life set out at appendix 1, thereby avoiding conduct likely to bring the Council into disrepute
- are responsible for compliance with the Council's financial regulations and for the efficient use of any resources over which they have influence or control; and for managing any staff under their control to ensure that such regulations and procedures are followed
- are responsible for ensuring that the Council has available to it the information which it needs to take sound decisions in areas within each member of staff's area of responsibility and receives reports on the activities of its committees and on the use of delegated authorities
- should ensure that in describing the Council's actions, as correct and full

information as possible should be provided in order not to mislead those with an interest in the Council's business, subject to the requirements of confidentiality.

GIFTS AND HOSPITALITY

- 5 Staff should treat with caution any offer or gift, favour or hospitality and have a responsibility to ensure that they comply at all times with the rules set out in the Council's financial regulations covering the acceptance of gifts and hospitality and fees. These rules are reproduced at appendix 2 to this annex.
- 6 Staff should inform the chief executive in writing of any offer of gifts or hospitality which would appear excessive and in particular where any gift is offered with a value of more than £125 or hospitality with a value of more than £150.

PRIVATE INTERESTS

- 7 Staff are required as a condition of employment by the Council not to hold any remunerated post, office, profession or employment which would conflict with their duties to the Council. They should ensure that this is so by obtaining the agreement of the chief executive of the Council before taking on any paid outside responsibility which may lead to a conflict of interest. Such agreement should be sought by writing to the Council secretary. Staff should also declare to the Council secretary any other private interest, including those involving their spouse, partner or close family which may conflict with their duties to the Council.
- 8 When such interests are material, staff should not take part in decisions or discussions relating to that business, either informally or formally. Staff will be required to withdraw from the discussion of a relevant topic at any meeting of the Council or of any of its committees which has delegated authority to decide the matter; and not to take part in any discussion of that matter at any other Council committee or working group meeting.

RESOLUTION OF DIFFICULTIES

- 9 If at any time a member of staff has difficulty in complying with this code, he or she should discuss the matter with their team leader, the head of their division, the Council secretary or the chief executive. Any decision of the Council secretary or chief

executive in relation to such a matter will be recorded and a copy provided to the chairman of the Council.

10 In the event that a member of staff considers that the Council's codes are being disregarded, he or she may make a complaint on a confidential basis to the chairman of the audit committee; and, if dissatisfied with the outcome, to the person appointed by the Council to conduct external scrutiny of the Council's decisions.

THE NOLAN COMMITTEE: THE SEVEN PRINCIPLES OF PUBLIC LIFE

STAFF EMPLOYED BY THE COUNCIL

1 Selflessness

Staff employed by the Council should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

2 Integrity

Staff employed by the Council should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

3 Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, staff employed by the Council should make choices on merit.

4 Accountability

Staff employed by the Council are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate.

5 Openness

Staff employed by the Council should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands it.

6 Honesty

Staff employed by the Council have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

7 Leadership

Staff employed by the Council should promote and support these principles by leadership and example.

RULES FOR COUNCIL STAFF ON THE ACCEPTANCE OF GIFTS AND HOSPITALITY AND FEES

GIFTS AND HOSPITALITY

1 The behaviour of Council employees in the acceptance of gifts and hospitality should be governed by the following general guidance. The conduct of staff should not foster the suspicion of a conflict of interest. Staff should always have in mind the need not to behave so that the impression might be given to any member of the public or organisation with which they deal, or to their colleagues, that they may be influenced, or have in fact been influenced, by any gift or consideration to show favour or disfavour to any person or organisation whilst acting for the Council. A member of staff must not, either directly or indirectly, accept any gift, reward or benefit from any member of the public, college or other organisation with whom he or she has been brought into contact by reason of their duties, with the following exceptions:

- a. occasional gifts of a trivial character or inexpensive seasonal gifts (such as calendars);
- b. conventional hospitality, provided it is normal and reasonable in the circumstances. In considering what is normal and reasonable, regard should be had to:
 - i. the degree of personal involvement. There is no objection to the acceptance of, for example, an invitation to the annual dinner of a large trade or college association or similar body with which staff have day-to-day contact; or of working lunches (provided the frequency is reasonable) in the course of official visits
 - ii. the usual conventions of returning hospitality. The occasional acceptance of, for example, a meal would not offend the rule, whereas acceptance of frequent or regular invitations to private lunches, dinners or sporting or other events might give rise to a breach of the standard of conduct required
 - iii. the total cost of hospitality, for example, the acceptance of travel or

overnight accommodation in addition to the event itself should be taken into account.

2 Staff responsible for the purchase of supplies or equipment or, for example, college funding decisions should take particular care to ensure that there can be no criticism that unequal treatment has been given to suppliers involved in a tender process or to colleges in allocating funds.

3 Gifts are items of value other than a cash or monetary payment, for example, book tokens or wine. When gifts are offered to staff in return for their contribution as part of their duties to particular events, such as prize-givings, the opening of a new building or speaking engagements, they may be accepted provided that the value of the gift does not exceed £25. Where a more valuable gift is offered, it should be accepted on behalf of the Council, but passed to the Council secretary for display or disposal, or purchased at full value from the Council.

FEES

4 Staff may not receive any fee (that is any cash sum, cheque of payable order rather than a gift) from another body for work related in any way to their employment by the Council. In the event of any fee being offered, for example, for a speaking engagement, this should be refused where the offer is made by another public, not for profit, body. When the offer is made by a private sector body or a profit-making body such as a college company, the fee should either be refused or the member of staff involved should arrange for a cheque to be made out to a charity of their choice and send it to the payments team who will log its receipt and send it on to the charity involved.

5 In the event of a fee being paid without a prior offer being made, the fee should be returned in the case of a public sector body. In the case of a private sector body, the fee should be surrendered to the Council by sending a cheque to the payments team with an explanatory note.

DIFFICULTIES

6 In the event that staff are concerned about issues relating to the acceptance of gifts, hospitality and fees, the matter should first be discussed with their team leader, who may seek advice from the Council secretary or chief executive as appropriate.

CODE ON ACCESS TO INFORMATION

INTRODUCTION

1 This code sets out the approach of the Further Education Funding Council (the Council) to providing information to those with an interest in its work including:

- arrangements for the publication and distribution of information about the Council's work including the publication of background, factual and analytical information when policy decisions are announced
- how the Council will make available explanatory material on its dealings with institutions which it funds, students, those with an interest in its work, and the public
- a commitment to give reasons for administrative decisions to those affected
- arrangements for publishing information about the Council's services to institutions, students and the public and about procedures for making complaints about the Council's administration
- the release of information relating to the Council's policies, actions and decisions and general information relating to the provision of further education held by the Council in response to specific requests.

PUBLICATION AND DISTRIBUTION OF INFORMATION

2 The Council is committed to the publication of information on its policy decisions and the results of its administrative action; and to the wide distribution of such information.

Main Publications

3 The Council will publish three main documents each year:

- its corporate plan for the next three years setting out its aims, objectives, strategies and targets
- an annual report incorporating its financial accounts and reporting on its activities and achievements
- an annual report from its chief inspector on the quality of further education provided.

These documents will be distributed widely including to all institutions receiving Council funds, members of parliament, local authorities and bodies with an interest in further education.

Annual General Meeting

4 In order to provide a public opportunity for institutions funded by the Council to comment on its work, the Council held a general meeting in the autumn of 1995 and intends to hold another in the autumn of 1996 to present its annual report and the annual report of its chief inspector and to take questions from those with an interest in its work. Those invited included:

- representatives of institutions funded by the Council
- the chairmen of training and enterprise councils
- representatives of sector bodies.

5 The Council also made arrangements for the public and press to be able to attend to observe the proceedings.

6 The Council intends to review the operation of these arrangements after two events have been held.

Council News and Regional Committee News

7 The Council will publish after each of its meetings and after each meeting of its regional committees a document known respectively as *Council News* and regional *Committee News* setting out the matters which were considered and the decisions reached. The Council has a responsibility to advise the secretary of state on any matters relating to the further education sector on its own initiative. In addition the secretary of state is likely from time to time to seek advice from the Council. The Council will make the substance of this advice publicly available except on those occasions where the secretary of state has asked that such advice should remain confidential.

8 In addition, the Council will make available for inspection at each of its offices copies of the minutes of its meeting, the minutes of any committees of the Council with delegated authority and the minutes of its regional committees once those minutes have been agreed by the chairman of the Council or the chairman of the relevant committee. The agenda for each relevant meeting will be attached to the minutes. These arrangements apply to meetings from 1 January 1996.

9 In some cases, items of business will be confidential to members of the Council. The minutes of such items will not be publicly available although the item will appear on the agenda for the meeting. The Council intends to keep confidential only items which fall within the categories at appendix 1 to this annex.

10 All minutes and agendas will be available for a period of five years from being made available at the Council's Coventry office and for a period of one year at each of the Council's regional offices.

11 The Council's code of individual conduct (annex C) requires Council and regional committee members to register certain external interests. Copies of the registers of members' interests are available for inspection at each of the Council's offices.

12 Those wishing to examine these documents may do so in person between the hours of 09.00 and 17.00 on normal working days at the Council's Coventry office by asking at the reception desk. The Council's regional offices have a small staff and those wishing to examine documents at the Council's regional offices are requested to make an appointment to do so by contacting the regional office manager. Details of the addresses and contact numbers for the Council's offices are given in appendix 2 to this annex.

Statistical Information

13 The Council is developing with colleges progressively over the period until 1997 a new system of data collection. The Council will publish information arising from these data collections in annual statistical bulletins as follows:

- early student numbers for the current year and final student numbers for the previous year
- all-year student numbers from the previous college year
- staff data in the spring and autumn of each year
- financial data
- performance indicators
- management statistics
- student destination and achievement data.

14 The Council has agreed with the DfEE that certain of the Council's statistical press notices giving key student activity information will bear the government statistical service (GSS) logo. This

indicates that the press notices have been prepared according to the arrangements which apply to statistical press notices prepared directly by the GSS. In particular:

- the dates of press notices will be pre-announced as part of the central statistical office's (CSO's) procedures
- the format of press notices will be agreed well in advance of publication
- the compilation of the data is the responsibility of the Council's head of research and statistics who will agree the final figures with the director of the DfEE's analytical services division.

Quality Information

15 The Council is responsible along with colleges for assessing the quality of further education. The Council's inspectorate carries out inspections of whole institutions and surveys of aspects of provision nationally. Reports of both types of activities are published. The Council will also publish a report each year on the evaluation of its inspection activities.

16 The Council will from 1996 publish annually key performance indicators in relation to colleges in the further education sector.

17 The Council considers complaints about colleges under the *Charter for Further Education*. It intends to publish a report each year on the complaints which it has considered.

Policy Matters

18 In relation to policy matters the Council will continue to consult institutions which it funds and others on its policies on the following:

- systems for allocating funds
- arrangements for gathering data
- other major policy decisions and administrative systems.

19 In publishing its decisions on such matters, the Council will continue to report on the results of any consultation which it has carried out and will set out factual and analytical information which it has used in reaching its decisions.

20 The Council will in particular publish each year a full report on the development and application in that year of its funding methodology and the allocations resulting from that methodology and its application.

Distribution of Documents

21 A copy of any document published by the Council will be made available while the document remains in print. Documents will be priced at the Council's discretion. In particular the Council may, in some cases, wish to recover some or all of the costs of copies.

EXPLANATORY MATERIAL FOR INSTITUTIONS, STUDENTS AND OTHERS

22 The Council's main audience since its establishment has been the institutions receiving its funds, and other interested bodies. The Council has provided guidance to institutions in circulars and in specific guidance publications on various matters and will continue to do so. These circulars and publications are made widely available to the media, those with an interest in further education and to individuals and organisations on request.

23 The Council has not produced information specifically for students and the public on its activities and policies but where any of its activities requires wider dissemination, it will make available publications or information sheets to disseminate such information.

GIVING REASONS FOR ADMINISTRATIVE DECISIONS

24 The Council is already committed to giving reasons to those affected when it takes administrative decisions. In the case of decisions affecting a large number of institutions, such reasons will often be published as general principles rather than individually for each institution. In other cases the Council will provide the reasons for its decision in the document setting out that decision.

25 The Council has published criteria against which many of its decisions are taken. Where this is the case the reasons given for individual decisions will reflect the published criteria.

INFORMATION ON THE COUNCIL'S SERVICES TO INDIVIDUALS AND COMPLAINANTS

26 The Council provides two services direct to individuals:

- in the case of young people with learning difficulties and/or disabilities the Council provides educational placements at institutions outside the further education

sector where their needs cannot be met at sector institutions.

- under the *Charter for Further Education* the Council has a duty to consider complaints about colleges of further education after the exhaustion of colleges' own complaints procedures and where a complainant remains dissatisfied.

27 The Council has published an information leaflet for students with learning difficulties and/or disabilities and their parents, guardians or advocates. An information leaflet is also available for those who wish to make a complaint about a college of further education or a sixth form college.

REQUESTS FOR INFORMATION

28 The measures set out above will provide key information on the sector, the provision of further education and the Council's activities.

29 The Council regularly receives requests for specific information in correspondence and by telephone. Replies to such requests will be handled as a matter of priority and information will normally be provided within 15 working days. If it is likely that the provision of full information will take longer, the correspondent will be informed in writing of the likely date by which the information can be provided.

30 In some cases a request for information may be refused. The Council reserves the right to refuse disclosure of information where it falls into the categories set out in the appendix 1 to this annex. Where information cannot be disclosed the Council will inform the correspondent in writing of the reason with reference to those categories. Such decisions are open to review by a senior member of staff and any letter refusing disclosure of information will include details of how to seek a review of the decision (see paragraph 34).

Data Protection Act 1984

31 The Council will comply with the requirements of the *Data Protection Act 1984* including any requirement for the release of data to individuals.

Charging for Information

32 Ordinarily there will be no charge for the provision of information. Where a request for information is received which would require substantial research taking more than five hours of staff time, the Council will contact the enquirer to

discuss whether more readily available information would meet their needs. Where it is clear that the information requested is necessary to meet their needs, the Council will apply the following charging arrangements:

- there will be no charge for requests estimated to take up to five hours
- a charge of £15 per hour for each hour over five hours will be made for any request estimated to take longer than five hours
- requests where the work involved will take more than two days may be refused.

33 If a charge is applicable, applicants will be informed of the arrangements for payment before any work is carried out. Payment will normally be required in advance.

Review of Decisions

34 Where a request is made for a review of a decision not to provide information or a complaint is made about over-charging, the matter will be referred to the Council secretary or, where he has already been involved in the decision, to the chief executive for review.

ARRANGEMENTS FOR QUESTIONING COUNCIL POLICY AND PRACTICE

35 There may be occasions where questions arise which are of general interest. In order to allow fuller and public questioning of Council policies and decisions, the Council intends to make arrangements whereby any college, member of a college governing body or staff, student or member of the public may put questions in writing through an independent editor and have their questions published together with a written answer from the Council. The independent editor will have discretion to withhold the enquirer's name and address if so requested. Publication will be in *Council News*, which is issued after each meeting of the Council.

36 The Council intends to introduce such arrangements in autumn 1996 and will review the arrangements after one year.

CONFIDENTIALITY

The following categories of information are likely to be treated as confidential by the Council:

- advice to the secretary of state where it has been requested that the Council should not publish its advice; this will include the Council's advice on the public expenditure needs of the sector
- reports and drafts of reports to the Council or its committees or other internal opinion, advice, recommendation, consultation or deliberation
- correspondence between the Council and other bodies or individuals except where the other party's consent has been given for publication
- information about the financial position of individual institutions
- information relating to law enforcement and legal proceedings
- information of which the disclosure could lead to improper gain or advantage which would prejudice the Council's or another body's competitive position or would affect price competition
- personnel records
- information, opinions and assessments given in relation to recommendations for public honours
- information which is or will soon be published, the disclosure of which would be premature in relation to a planned announcement or publication
- information relating to partial or incomplete analysis, records or statistics
- personal information about any person (including a deceased person) or any other disclosure which would constitute or could facilitate an unwanted invasion of privacy, a breach of the provisions on data protection or a breach of the Council's guidelines on the release of data published in Circular 94/07
- commercial confidences, trade secrets or intellectual property, the unwanted disclosure of which could affect the competitive position of a third party
- information held in consequence of having been supplied in confidence by a person who has not consented to its disclosure
- medical information provided in confidence
- information of which the disclosure is prohibited by or under any enactment or regulation or under European Union law.

In addition, the Council reserves the right not to respond to requests for information which are manifestly unreasonable or vexatious or are formulated in too general a manner.

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